

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

RONALD E. GERBIG,

Plaintiff,

ORDER

v.

10-cv-746-bbc

JERRY HERZOG,

Defendant.

RONALD E. GERBIG,

Plaintiff,

ORDER

v.

10-cv-747-bbc

LIBRARY MANAGER, Grainger Hall,

Defendant.

Plaintiff Ronald Gerbig seeks leave to proceed in each of the above-captioned cases without prepayment of fees and costs or providing security for such fees and costs, pursuant

to 28 U.S.C. § 1915. I am unable to conclude from the answers on plaintiff's affidavits of indigency whether he is indigent. However, because plaintiff's complaints must be dismissed, I will not require him to submit new affidavits of indigency.

In addressing any pro se litigant's complaint the court must construe the complaint liberally. Haines v. Kerner, 404 U.S. 519, 521 (1972). The court will grant leave to proceed if there is an arguable basis for a claim in fact or law. Nietzke v. Williams, 490 U.S. 319, 325 (1989).

In case no. 10-cv-746-bbc, plaintiff seeks to have defendant Jerry Herzog charged with "violations of international chemical warfare treaties". In case no. 10-cv-747-bbc, plaintiff seeks to have the library manager at Grainger Hall at the University of Wisconsin, Madison charged with "gross insubordination to a superior officer, treason and gross misappropriation of funds."

Although state and federal judges are empowered to try criminal cases, they do not have the authority to initiate criminal prosecutions. This authority is given to federal and state prosecutors, who have the sole discretion to determine whether to prosecute an individual, and on what charges. United States v. Batchelder, 442 U.S. 14, 124 (1979). I will dismiss plaintiff's complaints because they do not contain an arguable basis for a claim in fact or law.

ORDER

IT IS ORDERED that plaintiff Ronald E. Gerbig's request for leave to proceed in forma pauperis in these cases is DENIED and the cases are DISMISSED because they do not contain an arguable basis for a claim in fact or law. The clerk of court is directed to enter judgment in favor of the defendants Jerry Herzog and the library manager at Grainger Hall and close these cases.

Entered this 1st day of December, 2010.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge